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FISCAL IMPACT STATEMENT

LS 6704

BILL NUMBER: HB 1190

NOTE PREPARED: Jan 24, 2006

BILL AMENDED: Jan 23, 2006

SUBJECT: Farm Winery Sales to Retailers.

FIRST AUTHOR: Rep. Stutzman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill prohibits a farm winery from selling wine directly to the holder of a retailer permit. The bill redefines "farm winery". The bill also allows a farm winery to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a not-for-profit basis. The bill allows a farm winery to offer wine tastings and sell the winery's wine at three locations apart from the winery. It increases to 30 days (from nine days) the amount of time in a calendar year during which a farm winery may participate in a trade show or exposition. The bill repeals affidavit requirement for a holder of a farm winery permit. This bill requires that the provisions of the alcohol and tobacco law be strictly construed and that the words used in the law be interpreted according to their literal meanings. This bill also requires wine wholesalers to make provisions to sell wine from farm wineries.

Effective Date: July 1, 2006.

Explanation of State Expenditures: It is estimated that the increase in enforcement costs for the Alcohol and Tobacco Commission (ATC) could be covered through the use of existing staff and resources.

Explanation of State Revenues: (Revised) *Strict Construction of IC 7.1:* The bill adds language to IC 7.1 that provides that this title shall be strictly construed, and the words used in this title shall be interpreted according to their literal meanings. The bill also provides that provisions of this title shall be construed to further limit rather than expand commerce in alcoholic beverages.

It is anticipated that these changes are meant to prohibit the shipment of wine directly to Indiana residents by Indiana wineries. Current law prohibits out-of-state wineries from shipping directly to Indiana residents.

Farm Winery Sales: This bill prohibits a farm winery from selling directly to a retailer. The bill also adds provisions that allow a farm winery to offer wine tastings and sell their wine at three locations apart from the winery. The bill also increases to 30 days (from 9 days) the amount of time in a calendar year during which a farm winery may participate in a trade show or exposition.

Farm Winery Permit Changes: The bill also changes the requirements for obtaining a farm winery permit. The bill removes a requirement from the definition of farm winery that required the winery to produce wine from grapes, other fruits, or honey produced in the state. The bill also removes from current law the requirement that a farm winery produce an affidavit that a certain fruit, grape, or honey is not obtainable in Indiana and therefore must be bought out of state. The bill also removes the one year Indiana residency requirement for issuance of a farm winery permit, and allows any individual or business (admitted to do business in Indiana) to apply for a permit.

Currently there are 36 wineries that hold farm winery permits in Indiana. The change in the permit requirements above could lead to a greater number of applicants for farm winery permits from out of state wineries. The fee for this permit is \$500. More wineries in the state could also impact both individual and corporate income taxes depending on the volume of sales and the income recognized.

Wine Wholesaler Permit Changes: This bill also requires wine wholesalers to consent to make pick-ups and deliveries from farm wineries under the guidelines in the bill. After June 30 2006, all wholesalers who wish to apply for or renew a permit must:

- (1) consent to pick up shipments from a farm winery for delivery to a retailer for a consumer who has ordered the wine from the farm winery; and
- (2) agree to pick up wine from a farm winery under the following conditions:
 - (A) make the pickup on the premises of the farm winery or accept shipment from the farm winery;
 - (B) make the pick up not later than two business days after the farm winery makes the request for the pickup; and
 - (C) deliver the wine to the package liquor store not more than five business days after the date on which the wine is picked up for delivery.

The bill allows a wine wholesaler to charge a fee of not more than \$2 per bottle or \$4 per case for these services. The retailer is then allowed to charge a consumer a fee of not more than \$2 per bottle or \$4 per case. It is anticipated that retailers will mark up the price of wine as a result of this fee, and an increase in the price per bottle means that more Sales Tax could be imposed.

Alcoholic Beverage Excise Taxes & Sales Tax: If these provisions impact sales of wine, both Sales Tax and Wine Excise Tax collections could be impacted. The \$0.47 per gallon wine excise tax is distributed to the following funds: state General Fund (\$0.20), the Post War Construction Fund (\$0.16), the ATC Enforcement and Administration Fund (\$0.04), the Addiction Services Fund (\$0.02), and the Wine Grape Market Development Fund (\$0.05). The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population.

Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Alcohol and Tobacco Commission.

Local Agencies Affected:

Information Sources:

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